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SENATE BILL 1003 By
Person

HOUSE BILL 1022
By Buck

AN ACT to amend Tennessee Code Annotated, Title 16 and Title 17, relative to the efficient operation of the judicial system.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 16, Chapter 1, Part 1, is amended by adding the following as a new section:

Section____. Any judge or lawyer sitting specially under Tennessee Code Annotated, Sections 17-2-208 or 16-15-209 or by interchange shall have the same immunity as the judge for whom they are sitting, and the state or county which would provide the defense for the judge for whom the lawyer or judge is sitting shall be required to provide the defense for the substitute judge.

SECTION 2. Tennessee Code Annotated, Section 17-2-208, is amended by deleting the section in its entirety and substituting instead the following:

Notwithstanding any other provision of the law to the contrary, judges of courts of general sessions and juvenile courts may interchange with each other whenever causes exist making an interchange necessary or for mutual convenience. The interchanging judge shall not be required to be a resident of the county of the judge for whom he or she is sitting but must otherwise possess the same qualifications as such judge.

SECTION 3. Tennessee Code Annotated, Section 16-15-209, is amended by deleting the section in its entirety and substituting instead the following:

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(a) If the judge of a court of general sessions or juvenile court finds it necessary to be absent from holding court, such judge may seek a special judge in accordance with the requirements of and in the numerical sequence designated by this section:

(1) If a special judge is necessary in a county or district with more than one (1) general sessions or juvenile judge, the judge shall interchange within such judge's county, pursuant to Tennessee Code Annotated, Section 17-2-208. If a judge cannot serve by interchange, a judge may seek to find any current, former, or retired judge, who will, by mutual agreement, sit as special judge. Such designation shall be made by the chief justice of the supreme court.

(2) In a county with only one (1) general sessions judge or juvenile court judge, the judge shall seek to find any current, former, or retired judge, who will, by mutual agreement, sit as special judge. The special judge shall serve by designation of the chief justice of the supreme court.

(3) If the judge is unable to secure a judge under subparts (1) or (2) of this subsection, the judge may apply to the Administrative Office of the Courts for assistance in finding a judge to sit by designation as special judge.

(4) Only after exhausting the procedures set out in subparts (1), (2) and (3) of this subsection, a judge may appoint a lawyer from a list, on a rotating basis, of lawyers that have been previously approved by the judge or judges of the district or county who are constitutionally qualified, in good standing, and possess sufficient experience and expertise. A lawyer appointed is subject to the following limitations:

(A) Documentation of notice to litigants of the absence of the duly elected or appointed judge, the reason therefor, and that a practicing lawyer is being appointed as a special judge.

(B) Documentation that the parties chose to proceed and not to continue the case pending the return of the duly elected or appointed judge.

(C) The lawyer shall not approve the payment of attorney's fees, involving an indigent defense claim or any discretionary fees. A special judge shall approve fees only when the exact amount is set by statute.

(b) Expenses of the assigned general sessions or juvenile court judge shall be handled as they are in Tennessee Code Annotated, Section 17-2-111.

(c) The county legislative body, by resolution adopted by a two-thirds (2/3) vote, may authorize the payment of compensation to a special judge selected pursuant to subsection (a)(4) of this section. The amount of such compensation shall not exceed the rate of compensation for other judges of the general sessions court or juvenile court for such county.

SECTION 4. Tennessee Code Annotated, Section 17-2-108, is amended by deleting the section in its entirety.

SECTION 5. Tennessee Code Annotated, Section 17-2-109, is amended by deleting from the first sentence of subsection (a) the word "criminal" and substituting instead the language "criminal, general sessions, juvenile".

SECTION 6.

(a) Notwithstanding the provisions of Sections 3 and 5 of this act, or any other relevant provision, to the contrary, a judge shall have the authority to appoint a special judge as provided in this section.

(b) The provisions of Sections 3 and 5 of this act, or any other relevant provision, shall not apply where a judge finds it necessary to be absent from holding court and appoints as a substitute judge:

A full-time officer of the judicial system under the judge's supervision whose duty it is to perform judicial functions, such as a juvenile referee, a child support referee or clerk and master, who is a licensed attorney in good standing with the Tennessee Supreme Court. Such judicial officer shall only serve as special judge in matters related to their duties as judicial officer.

SECTION 7. This act shall take effect July 1, 1997, the public welfare requiring it.